

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,133

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Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare finding him ineligible for Medicaid for the six-month period beginning August 1, 1997, until he incurs medical expenses in the amount of \$2,823.84. The issue is whether the Department correctly calculated the petitioner's applied income within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner is disabled and receives Social Security benefits of \$591 a month. Until recently, he also received Medicaid.

The petitioner recently married a woman with three children, all of whom receive Social Security survivors benefits. The petitioner's wife also works. As of July she had gross earnings of \$2,752 a month [\(1\)](#) in addition to her Social Security benefits of \$150 a month. After a recent review of the petitioner's case the Department found him ineligible for Medicaid for the six month period beginning August 1, 1997, until he met an applied income or spenddown amount (see [infra](#)) of \$2,823.84.

The petitioner does not dispute the Department's calculations of either his or his wife's income. His medical expenses are high, however, and all his wife's income goes toward basic household expenses. Unfortunately, the petitioner did not know that by getting married his wife's income would be considered in determining his eligibility for Medicaid.

ORDER

The Department's decision is affirmed.

REASONS

In this case the petitioner does not dispute the amount of his applied income as determined by the Department. Actually, because the petitioner qualifies for Medicaid under the "category" of either SSI or ANFC related, the Department can calculate his eligibility in one of two ways. Under SSI related, the Department would compute his and his wife's net income (\$2,064.78) and compare it to the "protected

income level" (PIL) for two persons (\$683). This would result in a six-month applied income figure of \$8,290.68 (see infra).

Under ANFC related, which is to the petitioner's advantage, the petitioner's income (\$591) and his and his wife's net combined income (\$3,403.28) is added together and divided by five, which is considered to be the petitioner's pro rata income based on household size (\$680.64). That is compared to the petitioner's pro rata (1/5) share of the PIL for a household of five persons (\$1,050 divided by 5, or \$210 per month). See Procedures Manual § P-2420B. Inasmuch as the petitioner's pro rata income is above the pro rata PIL, he qualifies for Medicaid only if he can show he has paid or incurred medical expenses at least equal to the difference between his countable income and his Protected Income Level". Medicaid Manual § M402. A six month accounting period is used to determine the amount of incurred medical expense required. P2424A(1). The difference between the petitioner's countable income of \$680.64 per month and the protected income level of \$210 is \$470.64 per month. When multiplied by the six month accounting period, a spend-down figure of \$2,823.84 is reached.

As the spend-down amount calculated by the Department in this case was in accord with its regulations, the Board is bound to uphold the decision. ⁽²⁾ 3 V.S.A. 3031(d), Fair Hearing Rule 17.

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1. At the hearing, held on September 9, 1997, the petitioner alleged that his wife's earnings had declined. The Department agreed to review the petitioner's case and adjust his eligibility determination accordingly.
2. At the hearing the hearing officer and the Department advised the petitioner that he could apply for GA if he had no available income and an unmet emergency medical need.